

(iv) Must be paid to consummate the transaction; and

(v) May include postage and insurance when it is necessary for the Agency to present the promissory note to the recorder to obtain a release of a portion of the real estate from the mortgage.

(3) For development or enlargement of real estate owned by the borrower as follows:

(i) Development or enlargement must be necessary to improve the borrower's debt repayment ability, place the borrower's farming operation on a sound basis, or otherwise enhance the objectives of the loan;

(ii) Such use will not conflict with the loan purposes, restrictions or requirements of the type of loan involved;

(iii) Funds will be deposited in a supervised bank account in accordance with subpart B of part 761 of this chapter;

(iv) The Agency has, or will obtain, a lien on the real estate developed or enlarged;

(v) Construction and development will be completed in accordance with § 761.10 of this chapter.

(b) After acceleration, the Agency may approve transactions only when all the proceeds will be applied to the liens against the security in the order of their priority, after deducting customary costs appropriate to the transaction. Such approval will not cancel or delay liquidation, unless all loan defaults are otherwise cured.

#### **§ 765.353 Determining market value.**

(a) *Security proposed for disposition.* (1) The Agency will obtain an appraisal of the security proposed for disposition.

(2) The Agency may waive the appraisal requirement when the estimated value is less than \$25,000.

(b) *Security remaining after disposition.* The Agency will obtain an appraisal of the remaining security if it determines that the transaction will reduce the value of the remaining security.

(c) *Appraisal requirements.* Appraisals, when required, will be conducted in accordance with § 761.7 of this chapter.

#### **§§ 765.354–765.400 [Reserved]**

### **Subpart I—Transfer of Security and Assumption of Debt**

#### **§ 765.401 Conditions for transfer of real estate and chattel security.**

(a) *General conditions.* (1) Approval of a security transfer and corresponding loan assumption obligates a new borrower to repay an existing FLP debt.

(2) All transferees will become personally liable for the debt and assume the full responsibilities and obligations of the debt transferred when the transfer and assumption is complete. If the transferee is an entity, the entity and each member must assume personal liability for the loan.

(3) A transfer and assumption will only be approved if the Agency determines it is in the Agency's financial interest.

(b) *Agency consent.* A borrower must request and obtain written Agency consent prior to selling or transferring security to another party.

#### **§ 765.402 Transfer of security and loan assumption on same rates and terms.**

An eligible applicant may assume an FLP loan on the same rates and terms as the original note if:

(a) The original borrower has died and the spouse, other relative, or joint tenant who is not obligated on the note inherits the security property;

(b) A family member of the borrower or an entity comprised solely of family members of the borrower assumes the debt along with the original borrower;

(c) An individual with an ownership interest in the borrower entity buys the entire ownership interest of the other members and continues to operate the farm in accordance with loan requirements. The new owner must assume personal liability for the loan;

(d) A new entity buys the borrower entity and continues to operate the farm in accordance with loan requirements; or

(e) The original loan is an EM loan for physical or production losses and persons who were directly involved in the farm's operation at the time of the loss will assume the loan. If the original loan was made to: